

AMENDED IN SENATE JULY 9, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1535

Introduced by Assembly Member Jones

February 27, 2009

~~An act to amend Sections 2530.2 and 3351.3 of, and to add Article 9 (commencing with Section 2539.2) to Chapter 5.3 of Division 2 of, the Business and Professions Code, relating to audiologists. An act to amend Sections 101, 149, 205, 2530.2, 2531.2, 2534, 3300, 3306, 3307, 3320.1, 3326, 3327, 3327.5, 3328, 3329, 3350, 3351.3, 3352, 3353, 3354, 3356, 3357, 3358, 3360, 3362, 3364, 3400, 3401, 3402, 3403, 3404, 3421, 3422, 3423, 3424, 3426, 3430, 3451, 3452, 3454, 3455, and 3456 of, to add Sections 2531.06 and 3322 to, to add Article 9 (commencing with Section 2539.1) to Chapter 5.3 of Division 2 of, to repeal Sections 2531.05, 3321, 3325, and 3330 of, and to repeal and add Section 3320 of, the Business and Professions Code, relating to hearing aids.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1535, as amended, Jones. Audiologists: hearing aids.

Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, provides for the licensure and regulation of audiologists by the Speech-Language Pathology and Audiology Board, defines the practice of audiology, and makes a violation of that act a crime.

~~Existing law also~~

Under existing law, the board is comprised of 3 licensed speech-language pathologists, 3 licensed audiologists, and 3 public

members. Existing law staggers the terms of office on the board and it also defines the practice of audiology and makes a violation of the act a crime.

Existing law, the Hearing Aid Dispensers Licensing Law, provides for the licensure and regulation of hearing aid dispensers, who fit or sell hearing aids, by the Hearing Aid Dispensers Bureau. Existing law exempts audiologists and individuals supervised by audiologists from the hearing aid dispenser licensure requirement if those persons do not directly or indirectly engage in the sale or offering for sale of hearing aids.

This bill would define the practice of audiology to include the selling of hearing aids and would also exempt audiologists from the hearing aid dispenser licensure requirements. However, the bill would prohibit a licensed audiologist from selling hearing aids unless he or she has passed a specified examination approved by the board. The bill would also make various provisions relating to the sale of hearing aids applicable to audiologists, such as, but not limited to, requiring hearing aids sold by catalog or direct mail to meet certain requirements, requiring a specified written receipt to be provided to a purchaser upon the sale of a hearing aid, and requiring specified records pertaining to the sale of a hearing aid to be maintained for 7 years.

By making licensed audiologists subject to specified requirements relating to the sale of hearing aids, the violation of which would be a crime, the bill would impose a state-mandated local program.

The bill would also abolish the Hearing Aid Dispensers Bureau and would transfer the bureau's duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers to the Speech-Language Pathology and Audiology Board. The bill would also provide for the transfer of funds from the Hearing Aid Dispensers Fund to the Speech-Language Pathology and Audiology Board Fund. Under the bill, the board would be comprised of 2 licensed speech-language pathologists, 2 licensed audiologists, one of whom shall be an audiologist that dispenses hearing aids, 2 licensed hearing aid dispensers, and 3 public members. The bill would make other conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101 of the Business and Professions Code,
2 as amended by Section 1 of Chapter 31 of the Statutes of 2008, is
3 amended to read:

4 101. The department is comprised of:

- 5 (a) The Dental Board of California.
- 6 (b) The Medical Board of California.
- 7 (c) The State Board of Optometry.
- 8 (d) The California State Board of Pharmacy.
- 9 (e) The Veterinary Medical Board.
- 10 (f) The California Board of Accountancy.
- 11 (g) The California Architects Board.
- 12 (h) The Bureau of Barbering and Cosmetology.
- 13 (i) The Board for Professional Engineers and Land Surveyors.
- 14 (j) The Contractors' State License Board.
- 15 (k) The Bureau for Private Postsecondary and Vocational
16 Education.
- 17 (l) The Structural Pest Control Board.
- 18 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 19 (n) The Board of Registered Nursing.
- 20 (o) The Board of Behavioral Sciences.
- 21 (p) The State Athletic Commission.
- 22 (q) The Cemetery and Funeral Bureau.
- 23 (r) The State Board of Guide Dogs for the Blind.
- 24 (s) The Bureau of Security and Investigative Services.
- 25 (t) The Court Reporters Board of California.
- 26 (u) The Board of Vocational Nursing and Psychiatric
27 Technicians.
- 28 (v) The Landscape Architects Technical Committee.
- 29 (w) The Bureau of Electronic and Appliance Repair.
- 30 (x) The Division of Investigation.
- 31 (y) The Bureau of Automotive Repair.
- 32 (z) The State Board of Registration for Geologists and
33 Geophysicists.
- 34 (aa) The Respiratory Care Board of California.
- 35 (ab) The Acupuncture Board.

- 1 (ac) The Board of Psychology.
- 2 (ad) The California Board of Podiatric Medicine.
- 3 (ae) The Physical Therapy Board of California.
- 4 (af) The Arbitration Review Program.
- 5 ~~(ag) The Hearing Aid Dispensers Bureau.~~
- 6 ~~(ah)~~
- 7 (ag) The Physician Assistant Committee.
- 8 ~~(ai)~~
- 9 (ah) The Speech-Language Pathology and Audiology Board.
- 10 ~~(aj)~~
- 11 (ai) The California Board of Occupational Therapy.
- 12 ~~(ak)~~
- 13 (aj) The Osteopathic Medical Board of California.
- 14 ~~(al)~~
- 15 (ak) The Bureau of Naturopathic Medicine.
- 16 ~~(am)~~
- 17 (al) The Dental Hygiene Committee of California.
- 18 ~~(an)~~

19 (am) Any other boards, offices, or officers subject to its
20 jurisdiction by law.

21 *SEC. 2. Section 149 of the Business and Professions Code is*
22 *amended to read:*

23 149. (a) If, upon investigation, an agency designated in
24 subdivision (e) has probable cause to believe that a person is
25 advertising in a telephone directory with respect to the offering or
26 performance of services, without being properly licensed by or
27 registered with the agency to offer or perform those services, the
28 agency may issue a citation under Section 148 containing an order
29 of correction that requires the violator to do both of the following:

30 (1) Cease the unlawful advertising.

31 (2) Notify the telephone company furnishing services to the
32 violator to disconnect the telephone service furnished to any
33 telephone number contained in the unlawful advertising.

34 (b) This action is stayed if the person to whom a citation is
35 issued under subdivision (a) notifies the agency in writing that he
36 or she intends to contest the citation. The agency shall afford an
37 opportunity for a hearing, as specified in Section 125.9.

38 (c) If the person to whom a citation and order of correction is
39 issued under subdivision (a) fails to comply with the order of
40 correction after that order is final, the agency shall inform the

1 Public Utilities Commission of the violation and the Public Utilities
2 Commission shall require the telephone corporation furnishing
3 services to that person to disconnect the telephone service furnished
4 to any telephone number contained in the unlawful advertising.

5 (d) The good faith compliance by a telephone corporation with
6 an order of the Public Utilities Commission to terminate service
7 issued pursuant to this section shall constitute a complete defense
8 to any civil or criminal action brought against the telephone
9 corporation arising from the termination of service.

10 (e) Subdivision (a) shall apply to the following boards, bureaus,
11 committees, commissions, or programs:

12 (1) The Bureau of Barbering and Cosmetology.

13 (2) The *Cemetery and Funeral Directors and Embalmers*
14 *Program Bureau*.

15 (3) The Veterinary Medical Board.

16 ~~(4) The Hearing Aid Dispensers Advisory Commission.~~

17 ~~(5)~~

18 (4) The Landscape Architects Technical Committee.

19 ~~(6)~~

20 (5) The California Board of Podiatric Medicine.

21 ~~(7)~~

22 (6) The Respiratory Care Board of California.

23 ~~(8)~~

24 (7) The Bureau of Home Furnishings and Thermal Insulation.

25 ~~(9)~~

26 (8) The Bureau of Security and Investigative Services.

27 ~~(10)~~

28 (9) The Bureau of Electronic and Appliance Repair.

29 ~~(11)~~

30 (10) The Bureau of Automotive Repair.

31 ~~(12) The Tax Preparers Program.~~

32 ~~(13)~~

33 (11) The California Architects Board.

34 ~~(14)~~

35 (12) The Speech-Language Pathology and Audiology Board.

36 ~~(15)~~

37 (13) The Board for Professional Engineers and Land Surveyors.

38 ~~(16)~~

39 (14) The Board of Behavioral Sciences.

40 ~~(17)~~

- 1 (15) The State Board for Geologists and Geophysicists.
- 2 ~~(18)~~
- 3 (16) The Structural Pest Control Board.
- 4 ~~(19)~~
- 5 (17) The Acupuncture Board.
- 6 ~~(20)~~
- 7 (18) The Board of Psychology.
- 8 ~~(21)~~
- 9 (19) The California Board of Accountancy.
- 10 ~~(22)~~
- 11 (20) The Bureau of Naturopathic Medicine.
- 12 SEC. 3. *Section 205 of the Business and Professions Code, as*
- 13 *amended by Section 2 of Chapter 31 of the Statutes of 2008, is*
- 14 *amended to read:*
- 15 205. (a) There is in the State Treasury the Professions and
- 16 Vocations Fund. The fund shall consist of the following special
- 17 funds:
- 18 (1) Accountancy Fund.
- 19 (2) California Board of Architectural Examiners' Fund.
- 20 (3) Athletic Commission Fund.
- 21 (4) Barbering and Cosmetology Contingent Fund.
- 22 (5) Cemetery Fund.
- 23 (6) Contractors' License Fund.
- 24 (7) State Dentistry Fund.
- 25 (8) State Funeral Directors and Embalmers Fund.
- 26 (9) Guide Dogs for the Blind Fund.
- 27 (10) Bureau of Home Furnishings and Thermal Insulation Fund.
- 28 (11) California Board of Architectural Examiners-Landscape
- 29 Architects Fund.
- 30 (12) Contingent Fund of the Medical Board of California.
- 31 (13) Optometry Fund.
- 32 (14) Pharmacy Board Contingent Fund.
- 33 (15) Physical Therapy Fund.
- 34 (16) Private Investigator Fund.
- 35 (17) Professional Engineers' and Land Surveyors' Fund.
- 36 (18) Consumer Affairs Fund.
- 37 (19) Behavioral Sciences Fund.
- 38 (20) Licensed Midwifery Fund.
- 39 (21) Court Reporters' Fund.
- 40 (22) Structural Pest Control Fund.

- 1 (23) Veterinary Medical Board Contingent Fund.
- 2 (24) Vocational Nurses Account of the Vocational Nursing and
- 3 Psychiatric Technicians Fund.
- 4 (25) Electronic and Appliance Repair Fund.
- 5 (26) Geology and Geophysics Fund.
- 6 (27) Dispensing Opticians Fund.
- 7 (28) Acupuncture Fund.
- 8 ~~(29) Hearing Aid Dispensers Fund.~~
- 9 ~~(30)~~
- 10 (29) Physician Assistant Fund.
- 11 ~~(31)~~
- 12 (30) Board of Podiatric Medicine Fund.
- 13 ~~(32)~~
- 14 (31) Psychology Fund.
- 15 ~~(33)~~
- 16 (32) Respiratory Care Fund.
- 17 ~~(34)~~
- 18 (33) Speech-Language Pathology and Audiology Fund.
- 19 ~~(35)~~
- 20 (34) Board of Registered Nursing Fund.
- 21 ~~(36)~~
- 22 (35) Psychiatric Technician Examiners Account of the
- 23 Vocational Nursing and Psychiatric Technicians Fund.
- 24 ~~(37)~~
- 25 (36) Animal Health Technician Examining Committee Fund.
- 26 ~~(38)~~
- 27 (37) Structural Pest Control Education and Enforcement Fund.
- 28 ~~(39)~~
- 29 (38) Structural Pest Control Research Fund.
- 30 ~~(40)~~
- 31 (39) State Dental Hygiene Fund.
- 32 ~~(41)~~
- 33 (40) State Dental Assistant Fund.
- 34 (b) For accounting and recordkeeping purposes, the Professions
- 35 and Vocations Fund shall be deemed to be a single special fund,
- 36 and each of the several special funds therein shall constitute and
- 37 be deemed to be a separate account in the Professions and
- 38 Vocations Fund. Each account or fund shall be available for
- 39 expenditure only for the purposes as are now or may hereafter be
- 40 provided by law.

1 ~~SECTION 1.~~

2 ~~SEC. 4.~~ Section 2530.2 of the Business and Professions Code
3 is amended to read:

4 2530.2. As used in this chapter, unless the context otherwise
5 requires:

6 (a) “Board” means the Speech-Language Pathology and
7 Audiology Board or any successor.

8 (b) “Person” means any individual, partnership, corporation,
9 limited liability company, or other organization or combination
10 thereof, except that only individuals can be licensed under this
11 chapter.

12 (c) A “speech-language pathologist” is a person who practices
13 speech-language pathology.

14 (d) The practice of speech-language pathology means all of the
15 following:

16 (1) The application of principles, methods, instrumental
17 procedures, and noninstrumental procedures for measurement,
18 testing, screening, evaluation, identification, prediction, and
19 counseling related to the development and disorders of speech,
20 voice, language, or swallowing.

21 (2) The application of principles and methods for preventing,
22 planning, directing, conducting, and supervising programs for
23 habilitating, rehabilitating, ameliorating, managing, or modifying
24 disorders of speech, voice, language, or swallowing in individuals
25 or groups of individuals.

26 (3) Conducting hearing screenings.

27 (4) Performing suctioning in connection with the scope of
28 practice described in paragraphs (1) and (2), after compliance with
29 a medical facility’s training protocols on suctioning procedures.

30 (e) (1) Instrumental procedures referred to in subdivision (d)
31 are the use of rigid and flexible endoscopes to observe the
32 pharyngeal and laryngeal areas of the throat in order to observe,
33 collect data, and measure the parameters of communication and
34 swallowing as well as to guide communication and swallowing
35 assessment and therapy.

36 (2) Nothing in this subdivision shall be construed as a diagnosis.
37 Any observation of an abnormality shall be referred to a physician
38 and surgeon.

39 (f) A licensed speech-language pathologist shall not perform a
40 flexible fiberoptic nasendoscopic procedure unless he or she has

1 received written verification from an otolaryngologist certified by
2 the American Board of Otolaryngology that the speech-language
3 pathologist has performed a minimum of 25 flexible fiberoptic
4 nasendoscopic procedures and is competent to perform these
5 procedures. The speech-language pathologist shall have this written
6 verification on file and readily available for inspection upon request
7 by the board. A speech-language pathologist shall pass a flexible
8 fiberoptic nasendoscopic instrument only under the direct
9 authorization of an otolaryngologist certified by the American
10 Board of Otolaryngology and the supervision of a physician and
11 surgeon.

12 (g) A licensed speech-language pathologist shall only perform
13 flexible endoscopic procedures described in subdivision (e) in a
14 setting that requires the facility to have protocols for emergency
15 medical backup procedures, including a physician and surgeon or
16 other appropriate medical professionals being readily available.

17 (h) “Speech-language pathology aide” means any person
18 meeting the minimum requirements established by the board, who
19 works directly under the supervision of a speech-language
20 pathologist.

21 (i) (1) “Speech-language pathology assistant” means a person
22 who meets the academic and supervised training requirements set
23 forth by the board and who is approved by the board to assist in
24 the provision of speech-language pathology under the direction
25 and supervision of a speech-language pathologist who shall be
26 responsible for the extent, kind, and quality of the services provided
27 by the speech-language pathology assistant.

28 (2) The supervising speech-language pathologist employed or
29 contracted for by a public school may hold a valid and current
30 license issued by the board, a valid, current, and professional clear
31 clinical or rehabilitative services credential in language, speech,
32 and hearing issued by the Commission on Teacher Credentialing,
33 or other credential authorizing service in language, speech, and
34 hearing issued by the Commission on Teacher Credentialing that
35 is not issued on the basis of an emergency permit or waiver of
36 requirements. For purposes of this paragraph, a “clear” credential
37 is a credential that is not issued pursuant to a waiver or emergency
38 permit and is as otherwise defined by the Commission on Teacher
39 Credentialing. Nothing in this section referring to credentialed

1 supervising speech-language pathologists expands existing
2 exemptions from licensing pursuant to Section 2530.5.

3 (j) An “audiologist” is one who practices audiology.

4 (k) “The practice of audiology” means the application of
5 principles, methods, and procedures of measurement, testing,
6 appraisal, prediction, consultation, counseling, and instruction
7 related to auditory, vestibular, and related functions and the
8 modification of communicative disorders involving speech,
9 language, auditory behavior or other aberrant behavior resulting
10 from auditory dysfunction; and the planning, directing, conducting,
11 supervising, or participating in programs of identification of
12 auditory disorders, hearing conservation, cerumen removal, aural
13 habilitation, and rehabilitation, including, hearing aid
14 recommendation and evaluation procedures including, but not
15 limited to, specifying amplification requirements and evaluation
16 of the results thereof, auditory training, speech reading, and the
17 selling of hearing aids.

18 (l) “Audiology aide” means any person, meeting the minimum
19 requirements established by the board, who works directly under
20 the supervision of an audiologist.

21 (m) “Medical board” means the Medical Board of California.

22 (n) A “hearing screening” performed by a speech-language
23 pathologist means a binary puretone screening at a preset intensity
24 level for the purpose of determining if the screened individuals
25 are in need of further medical or audiological evaluation.

26 (o) “Cerumen removal” means the nonroutine removal of
27 cerumen within the cartilaginous ear canal necessary for access in
28 performance of audiological procedures that shall occur under
29 physician and surgeon supervision. Cerumen removal, as provided
30 by this section, shall only be performed by a licensed audiologist.
31 Physician and surgeon supervision shall not be construed to require
32 the physical presence of the physician, but shall include all of the
33 following:

34 (1) Collaboration on the development of written standardized
35 protocols. The protocols shall include a requirement that the
36 supervised audiologist immediately refer to an appropriate
37 physician any trauma, including skin tears, bleeding, or other
38 pathology of the ear discovered in the process of cerumen removal
39 as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 5. Section 2531.05 of the Business and Professions Code is repealed.

~~2531.05. The Hearing Aid Dispensers Examining Committee shall appoint one of its members to serve as liaison to the Speech-Language Pathology and Audiology Board for the purpose of coordinating the policies of the committee and board regarding the fitting or dispensing of hearing aids. The Speech-Language Pathology and Audiology Board shall notify the Hearing Aid Dispensers Examining Committee in advance of all board business concerning the fitting or dispensing of hearing aids to facilitate the participation of the liaison member.~~

SEC. 6. Section 2531.06 is added to the Business and Professions Code, to read:

2531.06. The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers as provided under the Hearing Aid Dispenser Licensing Law (Chapter 7.5 (commencing with Section 3300)).

SEC. 7. Section 2531.2 of the Business and Professions Code is amended to read:

~~2531.2. The membership of the board shall include three~~ *two* licensed speech-language pathologists, ~~three~~ *two* licensed audiologists, *one of whom shall be an audiologist that dispenses hearing aids, two licensed hearing aid dispensers,* and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

The Governor shall appoint the physician and surgeon member and the other six licensed members qualified as provided in this

1 section. *The initial appointments of the licensed hearing aid*
2 *dispenser members shall be made to fill the first licensed*
3 *audiologist member vacancy and the first licensed speech-language*
4 *pathologist member vacancy that occurs on or after January 1,*
5 *2010. The Senate Rules Committee Committee on Rules and the*
6 *Speaker of the Assembly shall each appoint a public member, and*
7 *their initial appointment shall be made to fill, respectively, the first*
8 *and second public member vacancies which occur on or after*
9 *January 1, 1983.*

10 SEC. 8. *Section 2534 of the Business and Professions Code is*
11 *amended to read:*

12 2534. The board shall report to the Controller at the beginning
13 of each month for the month preceding the amount and source of
14 all revenue received by it pursuant to this chapter *and Chapter 7.5*
15 *(commencing with Section 3300)*, and shall pay the entire amount
16 thereof to the Treasurer for deposit in the Speech-Language
17 Pathology and Audiology Board Fund, which fund is hereby
18 created to carry out the purposes of this chapter *and Chapter 7.5*
19 *(commencing with Section 3300).*

20 ~~SEC. 2:~~

21 SEC. 9. Article 9 (commencing with Section ~~2539.2~~ 2539.1)
22 is added to Chapter 5.3 of Division 2 of the Business and
23 Professions Code, to read:

24
25 Article 9. Hearing Aids

26
27 2539.1. (a) *On and after January 1, 2010, in addition to*
28 *satisfying the licensure and examination requirements described*
29 *in Sections 2532 and 2532.2, no licensed audiologist shall sell*
30 *hearing aids unless he or she has passed an examination, approved*
31 *by the board, relating to selling hearing aids.*

32 (b) *On and after January 1, 2010, a licensed audiologist with*
33 *an unexpired license to sell hearing aids pursuant to Chapter 7.5*
34 *(commencing with Section 3300) may continue to sell hearing aids*
35 *pursuant to that license until that license expires pursuant to*
36 *Section 3451, and upon that expiration the licensee shall be deemed*
37 *to have passed the examination described in subdivision (a) and*
38 *may continue to sell hearing aids pursuant to his or her audiology*
39 *license subject to the provisions of this chapter. A licensed*
40 *audiologist whose license to sell hearing aids, issued pursuant to*

Chapter 7.5 (commencing with Section 3300), is suspended or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the examination requirement described in subdivision (a) as well as the other provisions of this chapter.

2539.2. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is licensed as an audiologist in this state and is authorized to sell hearing aids pursuant to Section 2539.1.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and surgeon, audiologist, or a hearing aid dispenser, licensed by the State of California which verifies that Section 2539.6 has been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2539.10.

2539.4. A licensed audiologist shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensed audiologist, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensed audiologist, and the address and office hours at which the licensed audiologist shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensed audiologist's license and the name and license number of any other hearing aid dispenser, temporary licensee, or audiologist who provided any recommendation or consultation regarding the purchase of the hearing aid.

1 (f) The terms of any guarantee or written warranty, required by
2 Section 1793.02 of the Civil Code, made to the purchaser with
3 respect to the hearing aid or hearing aids.

4 2539.6. Whenever any of the following conditions are found
5 to exist either from observations by the licensed audiologist or on
6 the basis of information furnished by the prospective hearing aid
7 user, a licensed audiologist shall, prior to fitting or selling a hearing
8 aid to any individual, suggest to that individual in writing that his
9 or her best interests would be served if he or she would consult a
10 licensed physician specializing in diseases of the ear or if no
11 licensed physician is available in the community then to a duly
12 licensed physician:

13 (1) Visible congenital or traumatic deformity of the ear.

14 (2) History of, or active, drainage from the ear within the
15 previous 90 days.

16 (3) History of sudden or rapidly progressive hearing loss within
17 the previous 90 days.

18 (4) Acute or chronic dizziness.

19 (5) Unilateral hearing loss of sudden or recent onset within the
20 previous 90 days.

21 (6) Significant air-bone gap (when generally acceptable
22 standards have been established).

23 No referral for medical opinion need be made by any licensed
24 audiologist in the instance of replacement only of a hearing aid
25 that has been lost or damaged beyond repair within one year of
26 the date of purchase. A copy of the written recommendation shall
27 be retained by the licensed audiologist for the period provided for
28 in Section 2539.10. A person receiving the written recommendation
29 who elects to purchase a hearing aid shall sign a receipt for the
30 same, and the receipt shall be kept with the other papers retained
31 by the licensed audiologist for the period provided for in Section
32 2539.10. Nothing in this section required to be performed by a
33 licensed audiologist shall mean that the licensed audiologist is
34 engaged in the diagnosis of illness or the practice of medicine or
35 any other activity prohibited by the provisions of this code.

36 2539.8. No hearing aid shall be sold by an individual licensed
37 as an audiologist under this chapter to a person 16 years of age or
38 younger, unless within the preceding six months a recommendation
39 for a hearing aid has been made by both a board-certified, or a
40 board-eligible physician specializing in otolaryngology, and by a

1 state licensed audiologist. A replacement of an identical hearing
2 aid within one year shall be an exception to this requirement.

3 2539.10. A licensed audiologist shall, upon the consummation
4 of a sale of a hearing aid, keep and maintain records in his or her
5 office or place of business at all times and each such record shall
6 be kept and maintained for a seven-year period. These records
7 shall include:

8 (a) Results of test techniques as they pertain to fitting of the
9 hearing aid.

10 (b) A copy of the written receipt required by Section 2539.4
11 and the written recommendation and receipt required by Section
12 2539.6, when applicable.

13 2539.12. ~~An~~A licensed audiologist who is the owner, manager,
14 or franchisee at a location where hearing aids are fit or sold, shall
15 be responsible for the adequacy of the fitting or selling of any
16 hearing aid fit and sold by any licensee or licensees at that location.

17 *SEC. 10. Section 3300 of the Business and Professions Code*
18 *is amended to read:*

19 3300. For the purposes of this chapter, the following definitions
20 shall apply:

21 (a) "Person" includes any individual, partnership, corporation,
22 limited liability company, or other organization, or any combination
23 thereof.

24 (b) "Advertise" and its variants include the use of a newspaper,
25 magazine, or other publication, book, notice, circular, pamphlet,
26 letter, handbill, poster, bill, sign, placard, card, label, tag, window
27 display, store sign, radio, or television announcement, or any other
28 means or methods now or hereafter employed to bring to the
29 attention of the public the practice of fitting or selling of hearing
30 aids.

31 ~~(c) "Department" means the Department of Consumer Affairs.~~

32 ~~(d) "Bureau" means the Hearing Aid Dispensers Bureau.~~

33 ~~(e) "Advisory committee" or "committee" means the Hearing~~
34 ~~Aid Dispensers Advisory Committee.~~

35 *(c) "Board" means the Speech-Language Pathology and*
36 *Audiology Board.*

37 ~~(f)~~

38 *(d) "License" means a hearing aid dispenser's license issued*
39 *pursuant to this chapter and includes a temporary license.*

40 ~~(g)~~

1 (e) "Licensee" means a person holding a license.

2 ~~(h)~~

3 (f) "Hearing aid" means any wearable instrument or device
4 designed for, or offered for the purpose of, aiding or compensating
5 for impaired human hearing.

6 ~~(i) "Director" means the Director of Consumer Affairs.~~

7 ~~(j) "Chief" means the Chief of the Hearing Aid Dispensers~~
8 ~~Bureau.~~

9 (g) "Fund" means the Speech-Language Pathology and
10 Audiology Board Fund.

11 SEC. 11. Section 3306 of the Business and Professions Code
12 is amended to read:

13 3306. (a) "Practice of fitting or selling hearing aids," as used
14 in this chapter, means those practices used for the purpose of
15 selection and adaptation of hearing aids, including direct
16 observation of the ear, testing of hearing in connection with the
17 fitting and selling of hearing aids, taking of ear mold impressions,
18 fitting or sale of hearing aids, and any necessary postfitting
19 counseling.

20 The practice of *fitting or* selling hearing aids does not include
21 the act of concluding the transaction by a retail clerk.

22 When any audiometer or other equipment is used in the practice
23 of fitting or selling hearing aids, it shall be kept properly calibrated
24 and in good working condition, and the calibration of the
25 audiometer or other equipment shall be checked at least annually.

26 (b) A hearing aid dispenser shall not conduct diagnostic hearing
27 tests when conducting tests in connection with the *practice of*
28 fitting or selling of hearing aids.

29 (c) Hearing tests conducted pursuant to this chapter shall include
30 those that are in compliance with the Food and Drug
31 Administration Guidelines for Hearing Aid Devices and those that
32 are specifically covered in the licensing examination prepared and
33 administered by the ~~bureau~~ board.

34 SEC. 12. Section 3307 of the Business and Professions Code
35 is amended to read:

36 3307. "Hearing aid dispenser," as used in this chapter, means
37 a person engaged in the *practice of* fitting or selling of hearing
38 aids to an individual with impaired hearing.

39 SEC. 13. Section 3320 of the Business and Professions Code
40 is repealed.

1 ~~3320. (a) There is within the jurisdiction of the department~~
2 ~~the Hearing Aid Dispensers Bureau. The bureau is under the~~
3 ~~supervision and control of the director. The duty of enforcing and~~
4 ~~administering this chapter is vested in the chief, who is responsible~~
5 ~~to the director. The director may adopt and enforce those rules and~~
6 ~~regulations that he or she determines are reasonably necessary to~~
7 ~~carry out the purposes of this chapter and to declare the policy of~~
8 ~~the bureau, including a system for the issuance of citations for~~
9 ~~violations of this chapter as specified in Section 125.9. These rules~~
10 ~~and regulations shall be adopted pursuant to Chapter 4.5~~
11 ~~(commencing with Section 11400) of Part 1 of Division 3 of Title~~
12 ~~2 of the Government Code.~~

13 ~~(b) The Governor shall appoint a chief of the bureau, at a salary~~
14 ~~to be fixed and determined by the director with the approval of the~~
15 ~~Director of Finance. The chief shall serve under the direction and~~
16 ~~supervision of the director and at the pleasure of the Governor.~~

17 ~~SEC. 14. Section 3320 is added to the Business and Professions~~
18 ~~Code, to read:~~

19 ~~3320. (a) The duties, powers, purposes, responsibilities, and~~
20 ~~jurisdiction of the Hearing Aid Dispensers Bureau within the~~
21 ~~Department of Consumer Affairs are hereby transferred to the~~
22 ~~Speech-Language Pathology and Audiology Board.~~

23 ~~(b) Any reference to the bureau in this chapter and its~~
24 ~~regulations, and elsewhere, shall be construed as a reference to~~
25 ~~the board.~~

26 ~~(c) In the performance of the duties and the exercise of the~~
27 ~~powers vested in the board under this chapter, the board may~~
28 ~~consult with industry representatives.~~

29 ~~(d) For the performance of the duties and the exercise of the~~
30 ~~powers vested in the board under this chapter, the board shall~~
31 ~~have possession and control of all records, papers, offices,~~
32 ~~equipment, supplies, or other property, real or personal, held for~~
33 ~~the benefit or use by the former Hearing Aid Dispensers Bureau.~~

34 ~~(e) All regulations in Division 13.3 (commencing with Section~~
35 ~~1399.100) of Title 16 of the California Code of Regulations are~~
36 ~~continued in existence under the administration of the board.~~

37 ~~SEC. 15. Section 3320.1 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~3320.1. Protection of the public shall be the highest priority~~
40 ~~for the Hearing Aid Dispensers Bureau board in exercising its~~

1 licensing, regulatory, and disciplinary functions. Whenever the
2 protection of the public is inconsistent with other interests sought
3 to be promoted, the protection of the public shall be paramount.

4 *SEC. 16. Section 3321 of the Business and Professions Code*
5 *is repealed.*

6 ~~3321. (a) There is within the bureau a Hearing Aid Dispensers~~
7 ~~Advisory Committee. The committee shall consist of seven~~
8 ~~members; three of whom shall be licensed hearing aid dispensers~~
9 ~~and four of whom shall be public members. Only one of the~~
10 ~~licensed members may also be licensed as an audiologist.~~

11 ~~(b) Each member of the committee shall hold office for a term~~
12 ~~of four years. Each member shall hold office until the appointment~~
13 ~~and qualification of his or her successor or until one year shall~~
14 ~~have elapsed since the expiration of the term for which he or she~~
15 ~~was appointed, whichever first occurs.~~

16 ~~(c) Vacancies occurring shall be filled by appointment for the~~
17 ~~unexpired term. Each member of the committee shall be eligible~~
18 ~~for reappointment in the discretion of the appointing power,~~
19 ~~provided that reappointed members shall, at the time of the~~
20 ~~reappointment, hold a valid license under this chapter. No person~~
21 ~~may serve as a member of the committee for more than two~~
22 ~~consecutive terms.~~

23 ~~(d) The Governor shall appoint two of the public members and~~
24 ~~the three licensees. The Senate Committee on Rules and the~~
25 ~~Speaker of the Assembly shall each appoint a public member.~~
26 ~~When appointing the public members, consideration shall be given~~
27 ~~to appointing a hearing-impaired individual.~~

28 ~~(e) Every member of the committee shall receive per diem and~~
29 ~~expenses as provided in Section 103 and 113.~~

30 ~~(f) The advisory committee shall:~~

31 ~~(1) Examine the functions and policies of the bureau and make~~
32 ~~recommendations with respect to policies, practices, and~~
33 ~~regulations as may be deemed important and necessary by the~~
34 ~~director or the chief to promote the interests of consumers or that~~
35 ~~otherwise promote the welfare of the public.~~

36 ~~(2) Consider and make appropriate recommendations to the~~
37 ~~bureau in all matters relating to hearing aid dispensing in this state.~~

38 ~~(3) Provide assistance as may be requested by the bureau in the~~
39 ~~exercise of its powers or duties.~~

~~(g) The bureau shall meet and consult with the committee regarding general policy issues related to hearing aid dispensing.~~

SEC. 17. Section 3322 is added to the Business and Professions Code, to read:

3322. (a) The duty of administering and enforcing this chapter is vested in the board.

(b) The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction granted under this chapter and under Chapter 5.3 (commencing with Section 2530).

SEC. 18. Section 3325 of the Business and Professions Code is repealed.

~~3325. Notice of each meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 19. Section 3326 of the Business and Professions Code is amended to read:

3326. The ~~bureau~~ board shall keep a record of all prosecutions for violations of this chapter and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.

SEC. 20. Section 3327 of the Business and Professions Code is amended to read:

3327. The ~~bureau~~ board may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The ~~bureau~~ board may require that prospective licensees shall applicants to first complete the required course of instruction or otherwise satisfy the ~~bureau~~ board that the licensee applicant possesses the necessary background and qualifications to fit or sell hearing aids. If the ~~bureau~~ board promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, it the board shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.

The ~~bureau~~ board may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.

1 *SEC. 21. Section 3327.5 of the Business and Professions Code*
2 *is amended to read:*

3 3327.5. All holders of licenses to sell or fit hearing aids shall
4 continue their education after receiving the license. The ~~bureau~~
5 ~~board~~ shall provide by regulation, as a condition to the renewal
6 of a license, that licensees shall submit documentation satisfactory
7 to the ~~bureau board~~ that they have informed themselves of current
8 practices related to the fitting of hearing aids by having pursued
9 courses of study satisfactory to the ~~bureau board~~ or by other means
10 defined as equivalent by the ~~bureau board~~.

11 Continuing education courses shall be subject to monitoring to
12 ensure compliance with the regulations adopted by the ~~bureau~~
13 ~~board~~ pursuant to this section.

14 *SEC. 22. Section 3328 of the Business and Professions Code*
15 *is amended to read:*

16 3328. The ~~bureau board~~ may adopt, amend, or repeal, in
17 accordance with the provisions of the Administrative Procedure
18 Act, regulations that are necessary to enable the ~~bureau board~~ to
19 carry into effect the provisions of law relating to the practice of
20 fitting or selling hearing aids.

21 *SEC. 23. Section 3329 of the Business and Professions Code*
22 *is amended to read:*

23 3329. (a) The ~~bureau board~~ may prosecute any and all persons
24 for any violation of this chapter.

25 (b) The ~~director board~~ shall hear and decide all matters,
26 including but not limited to, any contested case or any petition for
27 reinstatement or modification of probation, or may assign any of
28 those matters to an administrative law judge in accordance with
29 the Administrative Procedure Act. Except as otherwise provided
30 in this chapter, all hearings shall be conducted in accordance with
31 Chapter 5 (commencing with Section 11500) of Part 1 of Division
32 3 of Title 2 of the Government Code.

33 *SEC. 24. Section 3330 of the Business and Professions Code*
34 *is repealed.*

35 ~~3330. The bureau may employ the personnel necessary to~~
36 ~~administer this chapter and may incur other expenses as are~~
37 ~~necessary for the administration of this chapter. All inspections or~~
38 ~~investigations made pursuant to this chapter shall be made by~~
39 ~~personnel from the bureau or from the Division of Investigation~~
40 ~~of the department.~~

1 *SEC. 25. Section 3350 of the Business and Professions Code*
2 *is amended to read:*

3 3350. It is unlawful for an individual to engage in the practice
4 of fitting or selling ~~of~~ hearing aids, or to display a sign or in any
5 other way to advertise or hold himself or herself out as being so
6 engaged without having first obtained a license from the ~~bureau~~
7 ~~board~~ under the provisions of this chapter. Nothing in this chapter
8 shall prohibit a corporation, partnership, trust, association or other
9 like organization maintaining an established business address from
10 engaging in the business of fitting or selling, or offering for sale,
11 hearing aids at retail without a license, provided that any and all
12 fitting or selling of hearing aids is conducted by the individuals
13 who are licensed pursuant to the provisions of this chapter. A
14 person whose license as a hearing aid dispenser has been suspended
15 or revoked shall not be the proprietor of a business that engages
16 in the *practice of* fitting or selling ~~of~~ hearing aids nor shall that
17 person be a partner, shareholder, member, or fiduciary in a
18 partnership, corporation, association, or trust that maintains or
19 operates that business, during the period of the suspension or
20 revocation. This restriction shall not apply to stock ownership in
21 a corporation that is listed on a stock exchange regulated by the
22 Securities and Exchange Commission if the stock is acquired in a
23 transaction conducted through that stock exchange.

24 ~~SEC. 3.~~

25 *SEC. 26. Section 3351.3 of the Business and Professions Code*
26 *is amended to read:*

27 3351.3. This chapter does not apply to nor affect any physician
28 and surgeon licensed under Chapter 5 (commencing with Section
29 2000) of Division 2 who does not directly or indirectly engage in
30 the sale or offering for sale of hearing aids, nor to any audiologist
31 licensed under Chapter 5.3 (commencing with Section 2530).

32 *SEC. 27. Section 3352 of the Business and Professions Code*
33 *is amended to read:*

34 3352. Each person desiring to obtain a license to engage in the
35 practice of fitting or selling hearing aids shall make application to
36 the ~~bureau~~ *board*. The application shall be made upon a form and
37 shall be made in the manner as is provided by the ~~bureau~~ *board*
38 and shall be accompanied by the fee provided for in Section 3456.

39 *SEC. 28. Section 3353 of the Business and Professions Code*
40 *is amended to read:*

1 3353. (a) The ~~bureau~~ *board* shall prepare, approve, grade, and
2 conduct examinations of applicants for a hearing aid dispenser's
3 license. The ~~bureau~~ *board* may provide that the preparation and
4 grading of the examination be conducted by a competent person
5 or organization other than the ~~bureau~~ *board*, provided, however,
6 that the ~~bureau~~ *board* shall establish the guidelines for the
7 examination and shall approve the actual examination.

8 (b) Each applicant shall take and pass a written examination
9 and a practical examination compiled at the direction of the ~~bureau~~
10 *board* covering the critical tasks involved in the *practice of fitting*
11 and selling of hearing aids and the knowledge, skills, and abilities
12 needed to perform those tasks safely and competently.

13 *SEC. 29. Section 3354 of the Business and Professions Code*
14 *is amended to read:*

15 3354. The ~~bureau~~ *board* shall issue a license to all applicants
16 who have satisfied this chapter, who are at least 18 years of age,
17 who possess a high school diploma or its equivalent, who have
18 not committed acts or crimes constituting grounds for denial of
19 licensure under Section 480, and who have paid the fees provided
20 for in Section 3456. No license shall be issued to any person other
21 than an individual.

22 *SEC. 30. Section 3356 of the Business and Professions Code*
23 *is amended to read:*

24 3356. (a) An applicant who has fulfilled the requirements of
25 Section 3352 and has made application therefor, may have a
26 temporary license issued to him or her upon satisfactory proof to
27 the ~~bureau~~ *board* that the applicant holds a hearing aid dispenser's
28 license in another state, that the licensee has not been subject to
29 formal disciplinary action by another licensing authority, and that
30 the applicant has been engaged in the fitting and sale of hearing
31 aids for the two years immediately prior to application.

32 (b) A temporary license issued pursuant to this section shall be
33 valid for one year from date of issuance and is not renewable. A
34 temporary license shall automatically terminate upon issuance of
35 a license prior to expiration of the one-year period.

36 (c) The holder of a temporary license issued pursuant to this
37 section who fails either license examination shall be subject to and
38 shall comply with the supervision requirements of Section 3357
39 and any regulations adopted pursuant thereto.

1 *SEC. 31. Section 3357 of the Business and Professions Code*
2 *is amended to read:*

3 3357. (a) An applicant who has fulfilled the requirements of
4 Section 3352, and has made application therefor, and who proves
5 to the satisfaction of the ~~bureau~~ *board* that he or she will be
6 supervised and trained by a hearing aid dispenser who is approved
7 by the ~~bureau~~ *board* may have a temporary license issued to him
8 or her. The temporary license shall entitle the temporary licensee
9 to fit or sell hearing aids as set forth in regulations of the ~~bureau~~
10 *board*. The supervising dispenser shall be responsible for any acts
11 or omissions committed by a temporary licensee under his or her
12 supervision that may constitute a violation of this chapter.

13 (b) The ~~bureau~~ *board* shall adopt regulations setting forth criteria
14 for its refusal to approve a hearing aid dispenser to supervise a
15 temporary licensee, including procedures to appeal that decision.

16 (c) A temporary license issued pursuant to this section is
17 effective and valid for six months from date of issue. The ~~bureau~~
18 *board* may renew the temporary license for an additional period
19 of six months. The ~~bureau~~ *board* shall not issue more than two
20 renewals of a temporary license to any applicant. ~~If, and if a~~
21 temporary licensee who is entitled to renew a temporary license
22 does not renew the temporary license and applies for a new
23 temporary license at a later time, the new temporary license shall
24 only be issued and renewed subject to the limitations set forth in
25 this subdivision.

26 *SEC. 32. Section 3358 of the Business and Professions Code*
27 *is amended to read:*

28 3358. A temporary licensee under Section 3357 shall take the
29 license examination within the first 10 months after the temporary
30 license is issued. Failure to take the license examination within
31 that time shall result in expiration of the temporary license, and it
32 shall not be renewed unless the temporary licensee has first taken
33 the licensure examination. The ~~bureau~~ *board*, however, may in its
34 discretion renew the temporary license if the licensee failed to take
35 the necessary examination due to illness or other hardship.

36 *SEC. 33. Section 3360 of the Business and Professions Code*
37 *is amended to read:*

38 3360. Practical examinations shall be held by the ~~bureau~~ *board*
39 at least twice a year. The time and place of any practical

1 examination shall be fixed by the ~~bureau~~ board at least 45 days
2 prior to the date it is to be held.

3 *SEC. 34. Section 3362 of the Business and Professions Code*
4 *is amended to read:*

5 3362. (a) Before engaging in the practice of fitting or selling
6 hearing aids, each licensee shall notify the ~~bureau~~ board in writing
7 of the address or addresses where he or she is to engage, or intends
8 to engage, in the *practice of fitting or selling* of hearing aids, and
9 of any changes in his or her place of business.

10 (b) If a street address is not the address at which the licensee
11 receives mail, the licensee shall also notify the ~~bureau~~ board in
12 writing of the mailing address for each location where the licensee
13 is to engage, or intends to engage, in the *practice of fitting or*
14 *selling* of hearing aids, and of any change in the mailing address
15 of his or her place or places of business.

16 *SEC. 35. Section 3364 of the Business and Professions Code*
17 *is amended to read:*

18 3364. (a) Every licensee who engages in the practice of fitting
19 or selling hearing aids shall have and maintain an established retail
20 business address to engage in that fitting or selling, routinely open
21 for service to customers or clients. The address of the licensee's
22 place of business shall be registered with the bureau as provided
23 in Section 3362.

24 (b) Except as provided in subdivision (c), if a licensee maintains
25 more than one place of business within this state, he or she shall
26 apply for and procure a duplicate license for each branch office
27 maintained. The application shall state the name of the person and
28 the location of the place or places of business for which the
29 duplicate license is desired.

30 (c) A hearing aid dispenser may, without obtaining a duplicate
31 license for a branch office, engage on a temporary basis in the
32 *practice of fitting or selling* of hearing aids at the primary or branch
33 location of another licensee's business or at a location or facility
34 that he or she may use on a temporary basis, provided that the
35 hearing aid dispenser notifies the ~~bureau~~ board in advance in
36 writing of the dates and addresses of those businesses, locations,
37 or facilities at which he or she will engage in the *practice of fitting*
38 *or selling* of hearing aids.

39 *SEC. 36. Section 3400 of the Business and Professions Code*
40 *is amended to read:*

1 3400. Proceedings to deny, suspend, or revoke a license under
2 this chapter, shall be conducted in accordance with Chapter 5
3 (commencing with Section 11500) of Part 1 of Division 3 of Title
4 2 of the Government Code, and the ~~bureau~~ board shall have all of
5 the powers granted therein.

6 *SEC. 37. Section 3401 of the Business and Professions Code*
7 *is amended to read:*

8 3401. The ~~bureau~~ board may deny, issue subject to terms and
9 conditions, suspend, or revoke a license, or impose conditions of
10 probation upon a licensee, for any of the following causes:

11 (a) Gross incompetency, which includes, but is not limited to,
12 the improper or unnecessary fitting of a hearing aid.

13 (b) Gross negligence.

14 (c) Repeated negligent acts.

15 (d) Conviction of any crime substantially related to the
16 qualifications, functions, or duties of a hearing aid dispenser.

17 (e) Obtaining a license by fraud or deceit.

18 (f) Use of the term “doctor” or “physician” or “clinic” or
19 “audiologist,” or any derivation thereof, except as authorized by
20 law.

21 (g) Fraud or misrepresentation in the fitting or selling of a
22 hearing aid.

23 (h) The employment, to perform any act covered by this chapter,
24 of any person whose license has been suspended, revoked, or who
25 does not possess a valid license issued under this chapter.

26 (i) The use, or causing the use, of any advertising or promotional
27 literature in a manner that has the capacity or tendency to mislead
28 or deceive purchasers or prospective purchasers.

29 (j) Habitual intemperance in the use of alcohol or any controlled
30 substance.

31 (k) Permitting another to use his or her license for any purpose.

32 (l) Violation of any provision of this chapter or of any regulation
33 adopted pursuant to this chapter.

34 (m) Any cause that would be grounds for denial of an application
35 for a license.

36 (n) Violation of Section 1689.6 or 1793.02 of the Civil Code.

37 *SEC. 38. Section 3402 of the Business and Professions Code*
38 *is amended to read:*

39 3402. Upon denial of an application for license, the ~~bureau~~
40 board shall notify the applicant in writing, stating (1) the reason

1 for the denial and (2) that the applicant has a right to a hearing
2 under Section 3400 if he or she makes written request therefor
3 within 60 days after notice of denial. Service of the notice required
4 by this section may be made by certified mail addressed to the
5 applicant at the latest address filed by the applicant in writing with
6 the ~~bureau~~ board in his or her application or otherwise.

7 *SEC. 39. Section 3403 of the Business and Professions Code*
8 *is amended to read:*

9 3403. A plea or verdict of guilty or a conviction following a
10 plea of nolo contendere, made to a charge substantially related to
11 the qualifications, functions, and duties of a hearing aid dispenser
12 is deemed to be a conviction within the meaning of this article.
13 The ~~bureau~~ board may order the license suspended or revoked,
14 impose probationary conditions on a licensee, or may decline to
15 issue a license, when the time for appeal has elapsed, or the
16 judgment of conviction has been affirmed on appeal, or when an
17 order granting probation is made suspending the imposition of
18 sentence, irrespective of a subsequent order under Section 1203.4
19 of the Penal Code allowing the person to withdraw his or her plea
20 of guilty and to enter a plea of not guilty, or setting aside the verdict
21 of guilty, or dismissing the accusation, information, or indictment.

22 *SEC. 40. Section 3404 of the Business and Professions Code*
23 *is amended to read:*

24 3404. Before setting aside the revocation or suspension of any
25 license or modifying the probation of any licensee, the ~~bureau~~
26 board may require the petitioner to pass the regular examination
27 given for applicants for licenses.

28 *SEC. 41. Section 3421 of the Business and Professions Code*
29 *is amended to read:*

30 3421. It is unlawful to sell or barter, or offer to sell or barter,
31 any license issued by the ~~bureau~~ board.

32 *SEC. 42. Section 3422 of the Business and Professions Code*
33 *is amended to read:*

34 3422. It is unlawful to purchase or procure by barter any license
35 issued by the ~~bureau~~ board with intent to use the same as evidence
36 of the holder's qualification to practice the fitting or selling of
37 hearing aids.

38 *SEC. 43. Section 3423 of the Business and Professions Code*
39 *is amended to read:*

1 3423. It is unlawful to alter with fraudulent intent in any
2 material regard a license issued by the ~~bureau~~ board.

3 *SEC. 44. Section 3424 of the Business and Professions Code*
4 *is amended to read:*

5 3424. It is unlawful to use or attempt to use any license issued
6 by the ~~bureau~~ board that has been purchased, fraudulently issued,
7 counterfeited, or materially altered as a valid license.

8 *SEC. 45. Section 3426 of the Business and Professions Code*
9 *is amended to read:*

10 3426. It is unlawful to willfully make any false statement in a
11 material regard in an application for an examination before the
12 ~~bureau~~ board for a license.

13 *SEC. 46. Section 3430 of the Business and Professions Code*
14 *is amended to read:*

15 3430. In addition to other proceedings provided for in this
16 chapter, whenever any person has engaged, or is about to engage,
17 in any acts or practices ~~which~~ that constitute, or will constitute,
18 an offense against this chapter, the superior court for the county
19 wherein the acts or practices take place or are about to take place,
20 may issue an injunction or other appropriate order, restraining such
21 conduct on application of the ~~bureau~~ board, the Attorney General,
22 or the district attorney of the county. If the acts or practices
23 constitute, or will constitute, an offense against Section 3306.5,
24 the application to the superior court may be made by the State
25 Board of Optometry. The proceedings under this section shall be
26 governed by Chapter 3 (commencing with Section 525) of Title 7
27 of Part 2 of the Code of Civil Procedure.

28 *SEC. 47. Section 3451 of the Business and Professions Code*
29 *is amended to read:*

30 3451. (a) A license issued under this chapter expires at
31 midnight on its assigned renewal date.

32 (b) To renew an unexpired license, the licensee shall, on or
33 before the date of expiration of the license, apply for renewal on
34 a form provided by the ~~bureau~~ board, accompanied by the
35 prescribed renewal fee.

36 (c) Temporary license holders shall renew their licenses in
37 accordance with Section 3357, and apply for that renewal on a
38 form provided by the ~~bureau~~ board, accompanied by the prescribed
39 renewal fee for temporary licenses.

(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).

SEC. 48. Section 3452 of the Business and Professions Code is amended to read:

3452. Except as otherwise provided in this chapter, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the ~~bureau~~ board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 3451 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 49. Section 3454 of the Business and Professions Code is amended to read:

3454. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:

(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.

(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the ~~bureau~~ board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The ~~bureau~~ board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 50. Section 3455 of the Business and Professions Code is amended to read:

1 3455. ~~There is established in the State Treasury the Hearing~~
2 ~~Aid Dispensers Fund. All money in the Hearing Aid Dispensers~~
3 ~~Fund on January 1, 2010, shall be transferred on that date to the~~
4 ~~Speech-Language Pathology and Audiology Board Fund. All fees~~
5 ~~collected pursuant to this chapter shall be paid by the bureau board~~
6 ~~into the fund Speech-Language Pathology and Audiology Board~~
7 ~~Fund. All money in the Hearing Aid Dispensers Fund that fund~~
8 ~~shall be used to carry out the purposes of this chapter and Chapter~~
9 ~~5.3 (commencing with Section 2530), as provided in Section 2534.~~

10 SEC. 51. *Section 3456 of the Business and Professions Code*
11 *is amended to read:*

12 3456. The amount of fees and penalties prescribed by this
13 chapter shall be those set forth in this section unless a lower fee
14 is fixed by the ~~bureau~~ board:

15 (a) The fee for applicants applying for the first time for a license
16 is seventy-five dollars (\$75), which shall not be refunded, except
17 to applicants who are found to be ineligible to take an examination
18 for a license. Those applicants are entitled to a refund of fifty
19 dollars (\$50).

20 (b) The fees for taking or retaking the written and practical
21 examinations shall be amounts fixed by the ~~bureau~~ board, which
22 shall be equal to the actual cost of preparing, grading, analyzing,
23 and administering the examinations.

24 (c) The initial temporary license fee is one hundred dollars
25 (\$100). The fee for renewal of a temporary license is one hundred
26 dollars (\$100) for each renewal.

27 (d) The initial permanent license fee is two hundred eighty
28 dollars (\$280). The fee for renewal of a permanent license is not
29 more than two hundred eighty dollars (\$280) for each renewal.

30 (e) The initial branch office license fee is twenty-five dollars
31 (\$25). The fee for renewal of a branch office license is twenty-five
32 dollars (\$25) for each renewal.

33 (f) The delinquency fee is twenty-five dollars (\$25).

34 (g) The fee for issuance of a replacement license is twenty-five
35 dollars (\$25).

36 (h) The continuing education course approval application fee
37 is fifty dollars (\$50). The fee for a continuing education course
38 transcript is ten dollars (\$10).

39 (i) The fee for official certification of licensure is fifteen dollars
40 (\$15). The fee for a license confirmation letter is ten dollars (\$10).

1 ~~SEC. 4.~~
2 *SEC. 52.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.